

## REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-4 are rejected under 35 U.S.C. 102(e) over the patent to Shimma, et al.

Claim 2 is also rejected under 35 U.S.C. 112.

With the present Amendment applicants first of all amended the specification to bring it in compliance with the requirements of the U.S. Patent Practice and to provide a reference to the priority application.

In connection with the Examiner's rejection of claim 2 under 35 U.S.C. 112, it is respectfully submitted that the term "form-locking" is a widely accepted term. In mechanical arts corresponding connections can be subdivided into form-locking connections and force-transmitting connections. Form-locking connections or arrangements are connections or arrangements in which corresponding parts interlock with one another by a form-fit or a positive fit, which are all synonyms for the term "form-locking".

It is therefore believed that the Examiner's rejection of claim 2 under 35 U.S.C. 112 should be considered as not tenable and should be withdrawn.

In connection with the Examiner's rejection of the claims over the art, applicants canceled the original claims and submitted a new set of claims 5-10 which more clearly define the present invention and to distinguish it from the prior art.

Claim 5, the broadest claim on file, specifically defines a battery pack, comprising

- a housing;

- a plurality of battery cells 2 located in said housing 1 and having longitudinal axes;

- and heat-diffusing means for diffusing heat from said battery cells,

- said heat diffusing means including a wall of said housing 1 which surrounds said battery cells 2 and is shaped so that it forms at least one duct 3, 4

- which extends parallel to said longitudinal axes of said battery cells

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- and is closed off from an interior of said housing 1, for a heat-diffusing medium.

Claim 5 specifically defines, in addition to other features, that the at least one duct 3, 4 extends parallel to the longitudinal axes of the battery cells 2.

The patent to Shimma, et al applied by the Examiner against the original claims, discloses a battery pack with an improved cooling structure. This reference does not disclose at least one duct which extends parallel to the longitudinal axes of the cells. Figure 2 in combination with Figures 2 and 6 of the reference show that the cooling air flows across the battery cells 14. In Figure 2 the battery cells are arranged almost vertically, while the air flows from left to right, as shown by the arrows. Therefore it is believed to be clear that the air passages 24, 25 of the battery pack disclosed in the patent to Shimma, et al do not extend parallel to the longitudinal axes of the battery cells 4, as can be also clear from column 5, line 35 to column 6, line 22.

The original claims were rejected over this reference as being anticipated under 35 U.S.C. 102 (e). In connection with this, it is believed to be advisable to cite the decision in *re Lindenman Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the patent to Shimma does not disclose each and every element of the battery pack of the present invention as now defined in claim 5, and therefore the rejection of original claim 1 should be considered as not tenable with respect to the claim 5 and should be withdrawn.

The Examiner's attention is also respectfully directed to the features of claims 9 and 10. Claim 9 specifically defines in addition to the features of claim 5, that the wall regions 5, 6 of the at least one duct 3, 4 are brought into heat-conducting contact with the adjacent battery cells 2 over a large area, as explained on page 4, lines 7-8 of the specification. These features are also not disclosed in the patent to Shimma.

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Claim 10 specifically defines, in addition to the features of claim 5, that the at least one duct 3, 4 is located in a nip between the individual ones of the battery cells 2, as explained on page 4, lines 5-6 of the specification. These features of this claim are also not disclosed in the patent to Shimma.

It is believed that claims 9 and 10 should be considered as patentably distinguishing over the art not only because they depend on allowable claim 5, but also because they contain the allowable subject matter per se.

As for the other dependent claims, these claims depend on claim 5, they share its allowable features, and therefore they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

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Respectfully submitted,

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